

## 10. The Administration Has Failed to Develop a Comprehensive Long-Term Border Strategy

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The U.S. government relies upon a series of uncoordinated tactical initiatives that react to emergencies and precipitate problems along the border. Strategies have been tactical or ad hoc in nature, resulting in merely pushing a local problem of either illegal immigration or narcotics smuggling somewhere else along the border. A national strategy to secure U.S. borders that takes into account economic, immigration and security issues is long overdue. The merger of all border agencies within DHS offers an opportunity to develop such a strategy in conjunction with other federal agencies, the border communities, and foreign neighbors — all interested stake-holders in the development of a sound border policy for the twenty-first century.



Securing America's borders is a complex issue which must balance many interests, some of which are in conflict. For example, a locked-down border would turn the U.S. frontier into an area more like the demilitarized zone (DMZ) that separates North and South Korea or the Berlin Wall that formerly separated East and West Berlin. Such a measure may offer security from terrorists, but will impose an unacceptable burden on commerce and the flow of goods and services, as well as civil liberties.

A more sound and reasoned approach would consider not only security but also commerce and travel. It would coordinate the multitude of federal, state and local government agencies as well as national and local communities and trade groups that have vested interests in security and commerce at our borders. To ensure long-term success and prosperity, a border strategy must weigh all of these issues and their respective constituencies. A piecemeal approach, although perhaps successful for a time, will ultimately fail.

The Administration does not appear to have a broad border control strategy that encompasses all of the interrelated issues and stake-holders that come to play in protecting U.S. borders. Rather, DHS has merely continued to devote resources and execute policies based upon a pre-existing, 1994 INS criminal enforcement strategy, discredited by GAO since it was originally announced almost ten years ago.<sup>244</sup>

That strategy is solely a law enforcement strategy — placing an emphasis on decreasing the number of illegal immigrants coming into the United States by increasing controls at discrete locations on the border. It does not involve other agencies; indeed, it does not involve the entire border, but merely devotes resources to a few areas of the border that have experienced increases in illegal border crossings. In essence, this policy has been reactive to specific problems on the border, rather than designed to proactively address the challenges of the twenty-first century.

Since 1994, this strategy has added resources, including personnel, equipment, technology, and infrastructure at specific border patrol sectors along the Southern Border experiencing the highest levels of illegal immigration activity.<sup>245</sup> The strategy has included a series of enforcement initiatives including Operation Gatekeeper in San Diego, California; Operation Safeguard in Tucson, Arizona; Operation Hold-the-line in El Paso, Texas; and Operation Rio Grande in McAllen, Texas.<sup>246</sup>

Despite devoting enormous resources to these operations, this approach has had limited success in reducing illegal immigration or effectively strengthen border security. The latest GAO review of the strategy questioned its effectiveness and particularly whether it had actually

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<sup>244</sup> U.S. Government Accountability Office, *Illegal Immigration: Southwest Border Strategy results Inconclusive: More Evaluation Needed*, GAO/GGD-98-21, December 11, 1997; *Illegal Aliens: Significant Obstacles to Reducing Unauthorized Alien Employment Exist*, GAO/GGD-99-33, April 2, 1999; *Illegal Immigration: Status of Southwest Border Strategy Implementation* GAO/GGD-99-44, May 19, 1999; *Alien Smuggling: Management and Operational Improvements Needed to Address Growing Problem* GAO/GGD-00-103, May 1, 2000; and , *INS Southwest Border Strategy: Resource and Impact Issues Remain After Seven Years*, GAO-01-842, August, 2001.

<sup>245</sup> U.S. Department of Justice, INS Fact Sheet, *INS' Southwest Border Strategy*, May 1, 1999.

<sup>246</sup> *Op. cit.*, GAO-01-842, p.4-6.

decreased illegal immigration along the border.<sup>247</sup> From an analysis of INS detention data, the GAO was unable to conclude whether it was the enforcement strategy or the Mexican and U.S. economies that caused a drop in apprehensions in 2001. GAO noted that the only “primary discernable effect of the strategy, based on INS’ apprehension statistics, appears to be a shifting of the illegal alien traffic” from one sector to another – especially from heavily trafficked crossings in urban settings to more rural areas.<sup>248</sup> The consequences have been an increase in crime rates and added social costs to these more remote areas along with more deaths and injuries to the illegal immigrants.<sup>249</sup>



**A sign at the border in Organ Pipe Cactus National Monument warns illegal immigrants of the dangerous conditions.**

DHS’ Arizona Border Control (ABC) initiative is a continuation of the same 1994 Border Patrol strategy. Border Patrol and other law enforcement resources in Arizona have been strengthened to respond to increased illegal immigration in more remote regions of that state. Government officials have publicly admitted this new initiative is necessary in order to respond to increased illegal immigration caused by their prior enforcement initiatives in the urban centers of San Diego, Tucson and El Paso.<sup>250</sup> Like squeezing a balloon, the policy has moved the illegal immigration from one sector to another without decreasing the overall volume of illegal crossings.

<sup>247</sup> *Op. cit.*, GAO 01-842.

<sup>248</sup> *Op. cit.*, GAO 01-842.

<sup>249</sup> *Op. cit.*, CRS, August 8, 2002 memorandum, p. 5.

<sup>250</sup> Staff trip to Tucson, August 26, 2004.

Consequently, officials and community leaders have warned that the ABC initiative will force illegal immigration elsewhere, such as the inadequately enforced segment of the border in New Mexico. Indeed, recent press accounts corroborate this fact – reporting increased apprehensions in Lordsburg, New Mexico (up 85%) and Deming, New Mexico (10%) over the previous year.<sup>251</sup>

Although the ABC initiative has improved coordination in specific areas of operations, there is no indication that DHS has coordinated with the surrounding communities, New Mexico government officials, or their border communities, to prepare them for the expected onslaught of illegal immigration — a criticism that GAO has repeatedly made in their past reviews of this approach.<sup>252</sup>



**Border Patrol's "Border Safety Initiative Aid Station," located on the Tohono O'odham Indian Reservation as a part of the ABC Initiative.**

Similar coordination problems have been identified in a previous section of this report which has described in more detail the lack of coordination with federal and tribal authorities responsible for security issues on their border lands. In a June 2004 report, GAO noted not only that the Border Patrol's 1994 strategy was still guiding its efforts, but that, once again, the consequence of the program was to force illegal immigration to other areas of the border – in this case federal lands controlled by federal land management agencies. GAO noted that little, if any, coordination had been done prior to this initiative.<sup>253</sup>

<sup>251</sup> Leslie Hoffman, "New Mexico Becomes Key Border Crossing," *Associated Press*, April 18, 2004.

<sup>252</sup> *Op. cit.*, GAO 01-842.

<sup>253</sup> GAO, *Border Security: Agencies Need To Better Coordinate Their Strategies and Operations on Federal Lands*, GAO-04-590, June, 2004.

The lack of a coordinated border strategy also leads to an overloaded criminal justice system. By failing to coordinate with the Department of Justice, the impact of DHS' enhanced enforcement activities have been limited by insufficient numbers of prosecutors or immigration judges to hear cases against illegal immigrants. DHS also failed to plan for detention space to house increased numbers of detainees. As explained previously, DHS failed to plan, or budget for, the consequences of enhanced enforcement with its own Office of Detention and Removals Office, forcing the office to release an unacceptable number of illegal immigrants into the United States due to a lack of detention space.

Proposals by DHS to implement the new US-VISIT program at the ports-of-entry on the Southern Border are also indicative of the lack of planning. Border officials and community leaders have complained that proposals to implement US-VISIT do not take into account the unique challenges of the land border not faced at airports and seaports. The GAO raised similar concerns about its implementation, including the lack of input from the appropriate stakeholder organizations, as well as its failure to address "interim and permanent" infrastructure challenges. GAO noted that:

Construction of US-VISIT facility solutions, both interim and permanent, pose serious challenges for a number of reasons. For example, existing facilities do not support existing entry and exit processes at a number of the land ports-of-entry, border crossing wait times are very sensitive to very small increases in processing times at certain high-volume land ports of entry, and interim facility solutions must satisfy yet-to-be defined program requirements.<sup>254</sup>

Congress recognized the need for a broader, more coordinated border strategy when it passed the Immigration and Naturalization Service Data Management Improvement Act (DMIA) of 2000, creating a task force to evaluate and make recommendations on ways to improve the flow of traffic at our U.S. ports-of-entry while enhancing security.<sup>255</sup> This DMIA Task Force was originally chaired by the Attorney General or his designee and consisted of 17 representatives from six federal agencies, two state and local government groups, and nine private industry trade and travel organizations. The Task Force was required to file annual reports and was funded through 2008.

In its first report, issued in December, 2002, the Task Force included an entire chapter on subjects it would "continue to research and make recommendations on" in 2003 and 2004.<sup>256</sup> Those subjects included the development of INS technology, coordination efforts among federal agencies, interaction between border agencies and the Foreign Terrorist Tracking Task Force, infrastructure in ports of entry, biometrics, and other issues related to the development of an interoperable exit-entry border security system.

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<sup>254</sup> GAO, *Homeland Security: Risks Facing Key Border and Transportation Security Program Need to Be Addressed*, GAO-03-1083, September 2003, p. 3.

<sup>255</sup> Public Law 106-215, signed June 15, 2000.

<sup>256</sup> *Op. cit.*, DMIA Task Force First Report.

In the statute creating the DHS, the responsibilities of the Attorney General for this Task Force were transferred to the Secretary of the DHS. However, before the DHS was established in March, 2003, Attorney General Ashcroft, on December 3, 2002, renewed the Task Force's charter to study these issues, provided it a \$5.6 million budget for fiscal years 2003 and 2004, and assigned it seven staff positions. The Task Force was authorized to continue working until December, 2004, subject to renewal.

Despite these factors, the DMIA Task Force was abruptly disbanded in January 2004 after issuing a report stressing the need for investments in interoperability and calling for an independent assessment of US-VISIT.

The minutes of a January 27, 2004, meeting of the Task Force note that Assistant Secretary Stuart Verdery informed the Task Force, "that Under Secretary Asa Hutchinson has determined that their work has met the statutory requirements of DMIA 2000." This story was corroborated by briefings to Congressional staff. Issues relating to a coordinated border strategy that deals with improvements in staffing, facilities and infrastructure as well as information technology interoperability along the border were left unresolved. In light of that, the Department's decision to shut down this professional and highly productive Task Force four years early is highly questionable.

## **The Administration Has Failed to Develop a Comprehensive Long-Term Border Strategy Conclusions and Recommendations**

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A comprehensive, government-wide strategy to secure U.S. borders that addresses the long-term economic, immigration and security issues is long overdue.

Such a strategy must involve all of the various government agencies involved in border issues, such as the Commerce Department, Government Services Administration, Transportation Department, Central Intelligence Agency, Justice Department, State Department and Defense Department and not just DHS.

Such a policy cannot be designed by the federal government without the inclusion of other non-federal governmental stake-holders, including state and local governments, border communities, and industry, trade, union and tourist groups. It also needs to include representatives from NAFTA partners Canada and Mexico. All of these organizations will be impacted on a daily basis by any border strategy, and can play significant roles in its successful design and implementation.

The Administration needs to develop and implement such a strategy as soon as possible. To assist it in this task, the Administration should immediately reconstitute the DMIA Task Force and instruct it to continue its work for 2004. In addition, the Task Force should be continued until 2008 to report to Congress on Administration efforts to develop and implement the new border strategy.

